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09/597,448	06/20/2000	William S. Gatley	FASV-137-C1	6244

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EXAMINER

CIRIC, LJILJANA V

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 04/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/597,448

Applicant(s)
Gatley

Examiner
Ljiljana V. Ciric *LVC*

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 11, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-12 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Jan 11, 2002 is: a) ☐ approved b) ☒ disapproved.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

1. This Office action is in response to the amendment and arguments filed on January 11, 2002.
2. New claims 3-12 remain in the application.
3. The amendment filed on January 11, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure includes: reciting an open impeller chamber, an open motor chamber, and the motor housing as being sealed to the impeller housing in the new claims; broadening the recitation of an exhaust outlet pipe or port to a generic outlet; and, adding various features to the drawings as described in greater detail below.

Applicant is required to cancel the new matter in the reply to this Office action.

Response to Arguments

4. Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.

Oath/Declaration

5. This application presents a claim for subject matter not originally claimed or embraced in the statement of the invention. An open impeller chamber and an open motor chamber are not

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originally claimed or embraced in the statement of the invention. A supplemental oath or declaration is required under 37 CFR 1.67. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

Drawings

6. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on January 11, 2002 have been disapproved for the reasons set forth below in more detail.

7. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on January 11, 2002 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not, for example, support the showing of a stator 18 that is disposed above shaft 14 and rotor 16; instead, original Figure 1 appears to show these three elements as being coaxial with each other. Original Figure 2 shows aperture 32 to be smaller relative to the back side of housing 10 and does not show support for the grids shown traversing aperture 32 in newly proposed Figures 1 through 3. The shape of impeller housing 28 as newly shown in newly proposed Figures 3 and 4 is neither supported by the original disclosure nor identified as being standard or well-known in the art. Element 40, shown in original Figure 1, has been deleted without explanation. The location and shape of outlet 43 is not clearly supported by the original disclosure.

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8. The proposed drawing correction filed on January 11, 2002 has been disapproved because it is not in the form of a pen-and-ink sketch showing changes in red ink or with the changes otherwise highlighted. See MPEP § 608.02(v).

9. The drawings filed on June 20, 2000 and on January 11, 2002 are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the feature(s) canceled from the claim(s): the furnace from which the exhaust gases are drawn (or at least furnace walls to which the fan is mounted, for example) as cited in claim 3; an "open" motor chamber as cited in claim 7; and, an "open" impeller housing as cited in claim 7. No new matter should be entered.

10. The drawings filed on January 11, 2002 are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "36" has been used to designate both the apertures in the back plate 42 (as described in the specification) and the fastener bore defined by flange 24 (as shown in new proposed Figure 1). Correction is required.

11. The drawings filed on June 20, 2000 are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference sign "40" as shown in original Figure 1. Correction is required.

12. Applicant is required to submit a proposed drawing correction in reply to this Office action.

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Specification

13. The amendment filed is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: reference to an outlet 43 which is broader than the original disclosure of an outlet or exhaust pipe 38 (40?) or port as described, for example, on pages 7-8 of the original disclosure and as shown on original Figure 1 as element 40.

Applicant is required to cancel the new matter in the reply to this Office action.

14. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there appears to be no antecedent basis in the specification for the term “vent aperture”, “open motor chamber”, and “open impeller chamber” as cited in the newly presented claims.

15. The disclosure is objected to because of the following informalities: the recitation of “80+” in the title of the provisional application, “80+ Blower and Furnace Venting Method” [page 2, line 9], is a typographical error.

Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 112

16. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make

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and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

17. Claims 3 through 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For example, the originally filed disclosure, while supporting the existence of an outlet pipe or port 38/40, does not provide support for the broader recitation of an outlet that is neither a port nor a pipe. Also, the originally filed disclosure does not mention or show an “open” motor chamber or an “open” impeller chamber; rather, the original disclosure provides support for a motor chamber and an impeller chamber which are each enclosed or encased in a corresponding housing. Last but not least, the originally filed disclosure, while disclosing that the motor housing is secured to the impeller housing and that the blower can be sealed off to the furnace door [page 8, lines 1-13], nowhere does the originally filed disclosure note or even suggest that the motor housing is sealed to the impeller housing.

18. Claims 7 through 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what particular structure corresponds to the newly introduced limitations in claim 7 citing an “open motor chamber” and an “open impeller chamber”, thereby rendering claims 7 through 12 indefinite with regard to the scope of protection sought. Also, the limitations

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“having an *open* motor chamber configured to receive and *enclose* the motor” appears self-contradictory.

Claim Rejections - 35 U.S.C. § 102

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

20. As best can be understood in view of the indefiniteness of the claim, claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Pfister et al.

Pfister et al. discloses a furnace blower assembly essentially as claimed, including: a motor 54 having a motor shaft 76; a motor housing having an “open” motor chamber formed by cap 86 and member 84 for receiving and enclosing the motor 54; at least one vent aperture 72 in the motor housing; an impeller 80 enclosed by an “open” impeller chamber within impeller housing or tube 22 as broadly interpreted as required, the impeller 80 being mounted to the motor shaft 76 for rotation therewith and the impeller housing or tube 22 being mounted to the above-described motor housing. Little or no patentable weight is given to various functional limitations in the claim.

The reference thus reads on the claim.

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21. Alternately for claim 7 and as best can be understood in view of the indefiniteness of claims 7 through 12, claims 3 through 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Gatley et al.

Gatley et al. discloses the a blower assembly and a method of cooling the blower assembly essentially as claimed, including, as cited in claim 3 of the reference, providing at least one aperture in the back plate of the impeller.

The reference thus reads on the claims.

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925. While

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she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached on (703) 308-0101. The fax phone number is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.


LILJANA CIRIC
PATENT EXAMINER

lvc

April 22, 2002